



PRESENT:

Mr. Daniel A. Gecker, Chairman
Mr. Sherman W. Litton, Vice-Chairman
Mr. Jack R. Wilson, III
Mr. Russell J. Gulley
Mr. F. Wayne Bass
Mr. Kirkland A. Turner, Secretary to the Commission,
Planning Director

ALSO PRESENT:

Mr. William D. Poole, Assistant Director,
Development Review, Planning Department
Mr. Glenn E. Larson, Assistant Director, Plans and Information
Branch, Planning Department
Ms. Beverly F. Rogers, Assistant Director, Zoning and
Special Projects, Planning Department
Mr. Robert V. Clay, Principal Planner, Zoning and
Special Projects, Planning Department
Ms. Jane Peterson, Principal Planner, Zoning and
Special Projects, Planning Department
Ms. Darla W. Orr, Senior Planner, Zoning and
Special Projects, Planning Department
Mr. J. Michael Janosik, Zoning Administrator,
Planning Department
Mr. Gregory E. Allen, Planning Administrator,
Development Review, Planning Department
Mr. Jeffrey H. Lamson, Senior Planner, Development
Review, Planning Department
Mr. Alan G. Coker, Senior Planner, Development
Review, Planning Department
Mr. Doug Mawby, Senior Planner, Development
Review, Planning Department

Mr. David A. Hainley, Planning Administrator,
Development Review, Planning Department
Ms. Barbara Fassett, Planning Administrator, Advance Planning
and Research Branch, Planning Department
Mr. James K. Bowling, Principal Planner, Advance Planning
and Research Branch, Planning Department
Mr. Steven F. Haasch, Planner, Advance Planning and
Research Branch, Planning Department
Ms. Linda N. Lewis, Administrative Secretary, Administrative
Branch, Planning Department
Ms. Deanna D. Harkabus, Secretary, Administrative
Branch, Planning Department
Mr. David W. Robinson, Assistant County Attorney,
County Attorney's Office
Ms. Tara McGee, Assistant County Attorney,
County Attorney's Office
Mr. Allan M. Carmody, Budget Manager,
Budget and Management Department
Mr. R. John McCracken, Director,
Transportation Department
Mr. Richard M. McElfish, Director,
Environmental Engineering Department
Ms. Joan Salvati, Water Quality Administrator,
Environmental Engineering Department
Mr. Randolph Phelps, Senior Engineer,
Utilities Department
Ms. Jennifer Wampler, Planner, Parks Maintenance Division,
Parks and Recreation Department
Assistant Fire Marshal Steve Hall, Fire and Life Safety,
Fire Department
Ms. Cynthia Owens-Bailey, Director of Planning,
School Administration

WORK SESSION

At approximately 12:00 p. m., Messrs. Gecker, Litton, Wilson, Gulley, Bass and staff met in the Executive Session Meeting Room, Chesterfield County Administration Building for lunch and a work session to discuss the following:

- A. Requests to Postpone Action, Emergency Additions or Changes in the Order of Presentation.**
- B. Review Day's Agenda.**
(NOTE: At this time, any items listed for the 3:00 p. m. and 7:00 p. m. Sessions will be discussed.)
- C. Plans and Information Section Update.**
- D. Work Program – Review and Update.**

E. Deferred Item – Action on the following Administrative Substantial Accord Determination:

(This case was deferred at a previous session by the Planning Commission to their June 15, 2004, meeting.)

| <u>CASE AND DISTRICT</u> | <u>APPLICANT</u> | <u>REQUEST</u> | <u>PROJECT NAME</u> |
|---|---------------------------------------|-------------------------------------|--------------------------------|
| 04PD0316* Matoaca | Chesterfield County Public Schools | Substantial Accord Determination | Matoaca Middle School Annex |

F. Appointments to Housing Committee.

G. Discussion Relative to:

◆ **Neo-Traditional Zoning District.**

A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

There were no requests to postpone action, emergency additions or changes in the order of presentation.

B. REVIEW DAY'S AGENDA.

Messrs. Allen and Hainley updated the Commission as to the status of, and staff's recommendation for, the requests to be considered during the Afternoon Session.

Mr. Rogers updated the Commission as to the status of, and staff's recommendation for, the zoning requests to be considered during the Evening Session, as well as the upcoming caseloads.

Mr. Poole updated the Commission as to the status of, and staff's recommendation for, the proposed Miscellaneous Ordinance Amendments to be considered during the Evening Session.

C. ADVANCE PLANNING AND RESEARCH BRANCH PROJECTS UPDATE.

Ms. Fassett updated the Commission as to the status of ongoing and future meetings for pending projects, including the Northern Area Plan.

Mr. Bowling updated the Commission as to the status of ongoing and future meetings relative to the Upper Swift Creek Plan and indicated the Board of Supervisors' had scheduled a public hearing on the Central Area Plan for July 28, 2004.

D. WORK PROGRAM.

Upon conclusion of discussion relative to the Commission's Work Program, it was the consensus of the Commission to adopt their July 2004 Work Program, as outlined by Mr. Turner.

E. DEFERRED ITEM-ACTION ON THE FOLLOWING SUBSTANTIAL ACCORD DETERMINATION:

(This case was deferred at a previous session by the Planning Commission to their June 15, 2004, meeting.)

| <u>CASE AND DISTRICT</u> | <u>APPLICANT</u> | <u>REQUEST</u> | <u>PROJECT NAME</u> |
|---|---------------------------------------|-------------------------------------|--------------------------------|
| 04PD0316* Matoaca | Chesterfield County Public Schools | Substantial Accord Determination | Matoaca Middle School Annex |

Mr. Gecker referenced a letter from Mr. Ron Stack requesting the Commission not confirm the decision of the Director of Planning for Case 04PD0316, Chesterfield County Public Schools (Matoaca Middle School Annex); that the request be deferred at least thirty (30) days to allow a public hearing on the proposed conversion of the high school to a middle school; and that a community meeting be held in the Matoaca neighborhood with the District Planning Commissioner, County staff, School Board member and School Board staff available to discuss concerns.

There was discussion relative to the legal requirements for the time frame within which a Substantial Accord Determination was required to be approved; the lack of sufficient time to accommodate Mr. Stack's request; and other concerns.

The Commission requested that Ms. Owens-Bailey contact the School Administration to determine if a deferral would be feasible or acceptable.

F. APPOINTMENTS TO HOUSING COMMITTEE.

Upon conclusion of the discussion, the Commission agreed to defer appointments to the Housing Committee to the July 20, 2004, Work Session.

**G. DISCUSSION RELATIVE TO:
♦ NEO-TRADITIONAL ZONING DISTRICT.**

Upon conclusion of the discussion regarding an amendment to the Zoning Ordinance to establish a neotraditional development district, it was on motion of Mr. Gulley, seconded by Mr. Wilson, that the Commission added the Neo-traditional Zoning District project to their Work Program.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

Further, the Commission requested staff bring back a detailed outline of the proposed amendment for future discussion.

Mr. Turner recalled Case 04PD0316, Chesterfield County Public Schools (Matoaca Middle School Annex).

E. DEFERRED ITEM–ACTION ON THE FOLLOWING SUBSTANTIAL ACCORD DETERMINATION (continued):

(This case was deferred at a previous session by the Planning Commission to their June 15, 2004, meeting.)

| <u>CASE AND DISTRICT</u> | <u>APPLICANT</u> | <u>REQUEST</u> | <u>PROJECT NAME</u> |
|---|---------------------------------------|-------------------------------------|--------------------------------|
| 04PD0316* Matoaca | Chesterfield County Public Schools | Substantial Accord Determination | Matoaca Middle School Annex |

In response to the Commission's request, Ms. Owens-Bailey stated the School Administration did not wish to defer Case 04PD0316.

The Commission agreed to take no action on the request.

Mr. Robinson stated, based on the County's Substantial Accord Policy, if the request was not deferred by either the applicant and/or the Board of Supervisors or if the Commission failed to take action, the request was deemed approved and forwarded to the Board of Supervisors for consideration.

◆ **RECESS.**

There being no further Work Session business to discuss, the Commission recessed at approximately 2:10 p. m., agreeing to reconvene at 3:00 p. m. for the Afternoon Session.

3:00 P. M. AFTERNOON SESSION

Mr. Gecker, Chairman, called the Afternoon Session to order at approximately **3:00 p.m.** in the Public Meeting Room of the Chesterfield County Administration Building.

A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

There were no requests to postpone action, emergency additions or changes in the order of presentation.

B. APPROVAL OF PLANNING COMMISSION MINUTES.

Mr. Turner stated that the first order of business would be the consideration of the May 18, 2004, Planning Commission minutes.

On motion of Mr. Gulley, seconded by Mr. Wilson, the Commission resolved to approve the May 18, 2004, Planning Commission minutes, with the following corrections:

Page 13, paragraph 11:

"Mr. Ms. Lugay Lanier, the applicant's representative, accepted staff's recommendation."

Page 50, paragraph 9:

"Mr. Gulley cautioned Mr. Shewmake concerning the late submittal of proffered conditions, conveying Mr. Gecker's concerns and noting that had Mr. Gecker been present, the request would have most likely been deferred."

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

C. ACTION ON CASE 04SN0226 – WINDSOR PROPERTIES.

(The following case was considered by the Planning Commission on May 18, 2004. The public hearing was closed. Due to a lack of a majority vote on a recommendation, the case was carried over to the 3:00 p. m. Afternoon Session on June 15, 2004.)

04SN0226: In Dale Magisterial District, **WINDSOR PROPERTIES** requests rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for community mixed use. This request lies on 7.6 acres at the western terminus of Mistyhill Road. Tax ID 775-679-Part of 6282 (Sheet 17).

Mr. Andy Scherzer, the applicant's representative, did not accept staff's recommendation, stating area residents supported the proposed use and accompanying proffered conditions.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Litton, seconded by Mr. Wilson, the Commission resolved to recommend approval of Case 04SN0226 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. Public water and wastewater shall be used. (U)

2. The applicant, subdivider, or assignee(s) shall pay the following, for infrastructure improvements within the service district for the property, to the county of Chesterfield prior to the issuance of building permit:
 - A. \$9,000.00 per dwelling unit, if paid prior to July 1, 2004; or
 - B. The amount approved by the Board of Supervisors not to exceed \$9,000.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift building cost index between July 1, 2003, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2004.
 - C. In the event the cash payment is not used for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)
3. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
4. The minimum gross floor area for dwelling units shall be 2000 square feet. (P)
5. All exposed portions of the foundation of each dwelling unit shall be faced with brick or stone veneer. Exposed piers supporting front porches shall be faced with brick or stone veneer. (P)
6. A maximum of nineteen (19) lots shall be permitted on the property. (P)
7. All lots shall have sole access from Misty Hill Road, through Irongate Subdivision, Section 4. (T)
8. The minimum average lot size shall be 16,400 square feet. (P)
9. The following shall be recorded as deed restrictions in conjunction with the recordation of any subdivision plat:
 - a. The Architectural Board shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements, and the open space, if any, appurtenant thereto on all property. It shall prepare standards and promulgate design and development guidelines and application and review procedures. The standards shall incorporate all restrictions and guidelines relating to development and construction contained in this Declaration as well as restrictions and guidelines with respect to location of structures upon property, size of structures, driveway and parking requirements, foundations and length of structures, and landscaping requirements. Copies shall be available from the Architectural Board for review. The guidelines and procedures shall be those of the Architectural Board and they shall have sole and full authority to prepare and to amend the standards available to Owners, builders,

and developers who seek to engage in development of or construction upon property within their operations strictly in accordance therewith. The Architectural Board shall consist of three (3) persons; initial board members shall be Greg Simmons, Jim Baker, and Don Balzer. At such times as fifty percent (50%) of all property within the subject property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, one (1) Board members shall be replaced by a new resident of said development. At such time as one hundred percent (100%) of all property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, shall thereafter determine among themselves the members of the Architectural Board.

- b. No lot shown on a plat of subdivision of the Property shall be used except for single-family residential purposes and for purposes incidental thereto, except for model homes utilized by builder. Only one residence shall be constructed on a Lot; provided, however that outbuildings and other improvements may be constructed if approved by the Board as hereinbefore provided.
- c. No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than six square feet advertising the Lot for sale or signs used by a builder to advertise the Lot during the construction and sale period.
- d. No structure of a temporary character, trailer, tent, shack, garage, or other outbuilding shall be used at any time as a residence either temporarily or permanently.
- e. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other household pets may be kept, provided: (i) they are not raised, bred or kept for commercial purposes, and (ii) they shall not become an annoyance or nuisance to other Lot owners.
- f. No obnoxious or offensive activity shall be carried on or allowed upon any portion of the Property, nor shall anything be done thereon that may be or become a nuisance or any annoyance.
- g. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers maintained in a neat and orderly manner. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition in rear yards only.
- h. No Lot may be subdivided, altered or modified except as provided on the subdivision plat(s) recorded and to be recorded in connection with the development of the Property except that if no Lots shown on any such plat have been sold, the Owner may modify same by duly recorded instrument.
- i. Each Lot shall be maintained free of tall grass, undergrowth, dead trees, and weeds, and, generally, free of any condition that would decrease the attractiveness of the Property with the exception of areas deemed to be wetlands and/or RPA.
- j. No temporary or above ground swimming pools in excess of 100 square feet shall be permitted on the Property.

- k. No more than two unrelated persons shall occupy any dwelling on a Lot other than temporary guests.
 - l. All driveways and set-back lines shall be subject to the approval of the Board.
 - m. All exposed foundations of single-family residences constructed on the Property shall be of brick, stone, veneer or stucco.
 - n. The color of all improvements on the Property shall be subject to the approval of the Board.
 - o. Easements for utilities and drainage are reserved as shown on the plat and the right is reserved to owner or owners, their successors and assigns, to establish and grant any additional easements along any streets, avenues or drives for the purpose of furnishing utilities in or through said subdivision.
 - p. No fence of any kind shall be erected on any Lot in the area between the front building set-back line, and the front building set-back line, and the front street line and each must be approved by the Board as to material and design.
 - q. Except as otherwise provided by applicable law and unless approved by the Board, no antenna, aerial or device of any kind used for the purpose of transmitting or receiving radio, television, microwave or satellite signals shall be placed or erected on any lot, or on the exterior of any structure or house.
 - r. Any of the provisions of these restrictions may be modified or waived at any time by a majority of the Owners of the Lots recorded in this subdivision.
10. Manufactured homes shall not be permitted. (P)
11. A maximum of eight (8) dwelling units shall be permitted to have front loaded garages. (P)

AYES: Messrs. Gecker, Litton and Wilson.

NAYS: Messrs. Gulley and Bass.

D. CONSIDERATION OF THE FOLLOWING REQUESTS:

♦ **CASES WHERE THE APPLICANT ACCEPTS STAFF'S RECOMMENDATION AND THERE WAS NO OPPOSITION PRESENT.**

04PR0248: In Clover Hill Magisterial District, **CAPITOL GRANITE** requested Planning Commission approval of a landscape plan, as required by zoning Case 87SN0016. This project is commonly known as **OAK LAKE - CAPITOL GRANITE & MARBLE**. This request lies in a Light Industrial (I-1) District on a 1.65 acre parcel fronting approximately 225 feet on the southeast line of East Oak Lake Boulevard and better known as 1700 East Oak Lake Boulevard. Tax ID 736-690-7435 (Sheet 10).

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Bass, the Commission resolved that landscape plan approval for the proposed Oak Lake–Capitol Granite & Marble site, as required by Condition 5(a) and Textual Statement Condition 2 of zoning Case 87S016, for Case 04PR0248, Capitol Granite (Oak Lake–Capitol Granite & Marble), shall be and it thereby was granted, subject to the following condition:

CONDITION

The entire front yard setback shall be irrigated using an automatic sprinkler system. (P)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04PW0371: In Bermuda Magisterial District, **THE NRP GROUP, L.L.C.** requested Planning Commission approval of a development standards waiver for a second road access, as required by the multifamily residential standards of the Zoning Ordinance. This project is commonly known as **GRAND OAKS APARTMENTS**. This request lies in a Multifamily Residential (R-MF) District on 27 acres fronting the north line of West Hundred Road, approximately 230 feet west of Womack Road and the west line of Womack Road approximately 400 feet north of West Hundred Road. Tax IDs 785-653-5567, 7929, 9019 and 9629; 785-654-Part of 5817; 785-654-7621; 786-653-0382; and 786-654-0329 (Sheet 26).

Mr. John G. "Chip" Dicks, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

Mr. Litton expressed concerns regarding the location of an emergency access along Route 10 but would defer to the Commissioner in whose district the request was located.

Mr. Gecker expressed concern that the applicant was using the development standards waiver process to circumvent the zoning process and indicated he was uncomfortable approving the request under such circumstances.

In response to the Commission's concerns, staff explained how a determination was reached as to whether or not an emergency access was appropriate in this case and addressed other concerns.

In response to a question from the Commission, Assistant Fire Marshall Hall stated he had not supported an emergency access at the time of zoning, however, there appeared to have been a misunderstanding as to the intent of the conditions of zoning relative to the provision of a second road access versus an emergency access. He further added that the Fire Department did not support the provision of emergency accesses unless there were extraordinarily unique physical topographical conditions or extenuating circumstances related to the property.

Mr. Wilson stated, although he did not generally support the provision of emergency accesses, he felt there were unique circumstances and, as a matter of fairness, approval of the request was appropriate.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission found Case 04PW0371, The NRP Group, L.L.C. (Grand Oaks Apartments), substantially complied with the five (5) factors of Section 19-19 of the County Code and resolved to recommend approval of a development standards waiver to Section 19-

111(h)(In part) of the Zoning Ordinance requiring a second road access to serve the site for more than fifty (50) units, subject to the following conditions:

CONDITIONS

1. A paved emergency access road at least twenty-four (24) feet in width, including a gate that is normally closed and locked, shall be constructed with access to Route 10 prior to occupancy of more than fifty (50) units. The exact location shall be approved by the Planning and Transportation Departments. The exact design of the gate and locking device shall be approved by the Planning and Fire Departments. (P, T & F)
2. In the event that a public road or an access drive with cross-easement is constructed on property now owned by the Chester Medical Office Center Condo, GPIN 785-653-4631-00001 through 00005, such that public access becomes available at the point where the internal road system of the Applicant's property is allowed to stub into the Chester Medical Office Center Condo property line, as shown on the Site Plan, the Applicant agrees to connect to such public access and close the emergency access to Route 10. (P, T & F)

AYES: Messrs. Wilson, Gulley and Bass.

NAY: Mr. Gecker.

ABSTAINED: Mr. Litton.

04PR0322: In Bermuda Magisterial District, **THE NRP GROUP, L.L.C.** requested Planning Commission approval of, as part of the site plan review, removal of trees in the buffer area. This development is commonly known as **GRAND OAKS APARTMENTS - PHASE II**. This request lies in a Multifamily Residential (R-MF) District on 27 acres fronting the north line of West Hundred Road approximately 230 feet west of Womack Road, approximately 200 feet west of West Hundred Road. Tax IDs 785-653-5567, 7929 and 9019; 785-654-Part of 5817; 785-654-7621; 786-653-0382; and 786-654-0329 (Sheet 26).

Mr. John G. "Chip" Dicks, the applicant's representative, accepted staff's recommendation, with the exception of Review Comment 40 which he requested be modified to delete the requirement for construction of the thirty-two (32) senior housing units in Phase One of the project.

Mr. Gecker expressed concerns relative to allowing the applicant to delete the requirement specified in Review Comment 40 for construction of the thirty-two (32) senior housing dwellings with Phase I; inquired as to what remedy, if any, would be available to the County to ensure the thirty-two (32) senior housing units were constructed; asked if the applicant would be willing to provide a bond for the construction of the senior units in Phase II or provide other assurances that the senior units would be constructed; and inquired if there would be any liability for the County if the units were never constructed. He stated he felt the senior housing element of the case was significant to area property owners in that they had strongly negotiated with the applicant to address their concerns regarding the lack of an adequate inventory of housing for the elderly in the area and he did not wish to see the condition violated.

In response to questions from Mr. Gecker, Ms. McGee indicated Review Comment 40 did not replace Proffered Condition 11 of the original zoning and that there were legal remedies available to the County if the applicant failed to comply with the conditions of zoning.

Mr. Dicks stated there was no requirement of zoning that the senior dwelling units be included in the Phase I construction of the 184 family units; that no other units, other than the senior housing units, could be constructed in Phase II without the applicant having to come back through the zoning process; pointed out that the earliest the applicant could obtain financing in the Virginia Housing Development Authority (VHDA) cycle for construction of Phase II would be 2005; that the applicant would be in violation of the Fair Housing Law if the senior housing units were included as part of the family phase; and asked approval of the request based on the applicant's compliance with the zoning conditions, including revised Review Comment 40 as worked out with Mr. Wilson.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved that site plan approval, including approval for the removal of trees within a buffer, as required by Proffered Condition 18 of zoning Case 03SN0119, for Case 04PR0322, NRP Group, L.L.C. (Grand Oaks Apartments – Phase II), shall be and it thereby was granted, subject to the following conditions and review comments:

CONDITIONS

1. The applicant shall obtain a Development Standards Waiver for a second entrance and make any revisions required by the Planning Commission. (P)
2. Plans shall be revised and submitted for administrative review that address the following Review Comments. (P)

REVIEW COMMENTS

1. A Virginia Department of Transportation (VDOT) land use permit for any and all required transportation improvements on Iron Bridge Road (SR#10) and Womack Road (SR#749) will be satisfactorily completed prior to issuance of a Certificate of Occupancy for this commercial development. (VDOT)
2. Clarify which entrance will be used as a "construction entrance" for this site plan. (VDOT)
3. These plans cannot be approved until the Phase I plans are approved. All road improvements shown on the plans for Phase I must be completed, as determined by the Transportation Department, prior to issuance of any certificate of occupancy permits in either Phase. The Phase I improvements shown on these plans must match those shown on the Phase I site plan, 04PR0201. (T)
4. Based on the proposed building and street layout for Phase II of this project, Buildings 21, 22, 23 and 25 are not accessed to all exterior points of the building within 150 feet from an approved emergency fire apparatus roadway. Access from both sides of the buildings were checked to determine accessibility. Please advise as to the method to provide the required accessibility within 150 feet from an approved emergency fire apparatus access roadway. (F)

5. The FIR-1 sprinkler line, for Building 26, is in excess of the 100 feet permitted by the Chesterfield County Utilities Department for the application of the FIR-1 arrangement. The approximate distance is 133 feet. (F)
6. Show the County Project Number 04-0132 on the lower right hand corner of each sheet. (U)
7. This project will not be released for utilities construction until Phase I is under County Utilities Contract for construction. (U)
8. Show the County Project Number of the existing water/sewer lines near the connection point. (U)
9. Show the deed book and page number for the existing water/sewer easements. (U)
10. The fire line to Building 26 is over 100 feet, so show a two (2) inch double check assembly at the edge of the waterline easement. (U)
11. Cross connection control and backflow prevention shall be in accordance with the Uniform Statewide Building Code. (U)
12. The owner must enter into a County contract prior to the start of construction. Send a copy of the "accepted" bid proposal between the developer and the contractor so we may prepare the County contract. The bid proposal must be based on the approved site plan. All work must be performed by an acceptable utilities contractor. If the site plan is revised after the utility contract is prepared, a revised bid proposal may be necessary to accurately reflect the latest approved site plan, and a new contract preparation may be necessary. (U)
13. After complete site plan approval, submit three (3) sets of plans directly to the Utility Department for our use. (U)
14. A portion of the Perdue Lumber Subdivision (5670.01) must be vacated. Parcels 785-654-5817-00000, 785-654-7621-00000 and 786-654-0329-00000 are in this subdivision. (EE)
15. It is the responsibility of the applicant to comply with and/or acquire all applicable federal and/or state permits in relationship to environmental features including but not limited to "wetlands, surface waters (e.g. VPDES permit for construction sites of one (1) acre or more, ground water and air quality". Final approval of these plans will not relieve you of your responsibility. Wetlands documentation must be received by this department prior to issuance of the land disturbance permit. (EE)
16. A benchmark must be shown with reference to mean sea level. (EE)
17. The storm sewer alignment shown for Phase I as well as the storm sewer calculations do not correspond with the latest revision of the Phase I plans. Clarify (EE)

18. The outlet water surface elevation in the hydraulic gradeline calculations must equal $0.8 \times D$ of the outflow pipe plus the invert out elevation or the inlet water surface elevation of the downstream structure, whichever is greater. Revise the calculations accordingly. (EE)
19. Provide top of wall/bottom of wall elevations for the proposed retaining wall on Sheet C5.0. (EE)
20. Pedestrian safety measures must be provided for the proposed retaining wall. Revise the retaining wall detail accordingly. (EE)
21. Revise the proposed DI-1's to DI-7's with pedestrian safe grates in the storm sewer schedule on Sheet C5.0. (EE)
22. All roof water and downdrains must be collected and discharged in a non-erodible manner. Address for Buildings 23, 24 and 25 on Sheet C5.0. (EE)
23. Steps Std. ST-1 must be specified in the tabular drainage description of any structure over four (4) feet in height. (EE)
24. Specify the length of the sediment trap outlet in the detail on Sheet C2.3. (EE)
25. Any soil stockpile area must be located on the plans. Silt fence must be provided around the perimeter if it is located outside the perimeter erosion controls for the site. (EE)
26. Revise "Phase II" in the CBPA compliance note on the cover sheet to "Phase I". (EE)
27. Clarify if the area used in the bypass flow calculation for MS-19 and Proffered Condition 15 compliance included the 2.09 acres (at $C = 0.5$) on the northeast side of the site. (EE)
28. The Worksheet A calculations do not match the CBPA data map. Clarify. (Impervious percentage in Step 2 should be 36.3%) (EE)
29. The CBPA data map must also show the drainage area for the SWM/BMP and specify the percent of impervious cover within the drainage area. (EE)
30. Environmental Engineering will provide a more comprehensive review on the SWM/BMP once the above three (3) comments have been addressed. (EE)
31. Ensure that all information shown on the Phase I and Phase II plans is consistent with each other, i.e. storm sewer (including calculations), MS-19/Zoning Condition 15 compliance, CBPA data map, SWM/BMP elevations and volumes, etc. (EE)
32. The name, "walk-in address" and telephone number of a local registered agent representing the owner for service of process must be provided prior to issuance of a land disturbance permit. (EE)

33. The stormwater/BMP facility must be certified by a professional engineer prior to issuance of any occupancy certificates. (EE)
34. Prior to issuance of a land disturbance permit, a diskette/CD, the format of which shall be Autocad.dwg or dxf, must be submitted to Virginia Barbour of Environmental Engineering. The diskette/CD must contain the following, each in a separate layer:
- A. Final grading contour lines (five (5) foot intervals);
 - B. Proposed building footprint;
 - C. All impervious area (parking lots, driveways, roads, etc); and
 - D. The storm sewer system.
- A layer report printed from Autocad must be submitted with the diskette/CD. Both the diskette/CD and the report must be labeled with the site plan name, site plan number and the engineering firm. All Autocad files must be referenced directly to the Virginia State Plane Coordinate System, South Zone, in the NAD83 datum. (EE)
35. A land disturbance permit is required for this project and the following are required prior to its issuance:
- A. Substantial or full site plan approval
 - B. A letter must be received from a qualified wetlands expert stating:
 - 1. There are no wetlands impacted on this project, or
 - 2. All applicable federal and state wetland permits have been acquired (copies of the permits must be submitted)
 - C. Issuance of the Phase I land disturbance permit (EE)
36. Put a revision date on the resubmitted plans. Resubmit twelve (12) full sets and one (1) copy of the site plan sheet to the Planning Department for your next review. Use the spaces below each comment to describe how you have addressed each review comment. Be sure to indicate which sheets show the required changes. Provide a transmittal letter to describe any changes to the plans not caused by the staff review comments. (P)
37. Put the Chesterfield County site plan number (04PR0322) in the lower right corner of each sheet. (P)
38. The GPIN numbers shown on the cover and site plan sheet include all GPIN for both Phase I and Phase II. For clarity show the GPIN numbers that apply to Phase II only then list the GPIN numbers that apply to Phase I or the total project. (P)
39. On Sheet C2.1 show the easement and buffer. Grading shall not occur in the thirty-five (35) foot easement. (P)
40. The Applicant shall apply for financing through VHDA for the 32 age restricted units within 90 days of the approval of the Phase II site plan and shall provide the County with a copy of such application. (P)

41. On Sheet C3.1, revise the fifty-one (51) foot dimension from Womack Road to fifty (50) foot setback and tree save area. This dimension was not revised when the design was revised. (P)
42. Provide colors for the materials on the architectural elevations. Indicate type of roof shingle. (P)
43. There are several conflicts and drafting errors on the site and landscape plans. One (1) example is a light pole located on a curb inlet between Buildings 23 and 24. Correct as needed. (P)
44. Prior to release of building permits, the cash proffers must be paid per Proffered Condition 16. (P)

AYES: Messrs. Gecker, Wilson, Gulley and Bass.
NAY: Mr. Litton.

04PW0344: In Clover Hill Magisterial District, **CLOVER HILL INDUSTRIAL PARK, INC., LUTHER CAUDLE AND THE ESTATE OF E. J. BELL** requested Planning Commission approval of a development standards waiver regarding screening of outdoor storage, specifically that outside storage will not require screening from public roads within the Clover Hill Industrial Park. This request lies in a Light Industrial (I-1) District on three (3) parcels lying north of Hull Street Road on the northeast side of Warbro Road, commonly known as **CLOVER HILL INDUSTRIAL PARK**. Tax IDs 737-684-3670, 738-684-0158 and 738-686-Part of 1708 (Sheet 10).

Mr. Gary Patterson, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Wilson, the Commission found Case 04PW0344, Clover Hill Industrial Park, Inc., Luther Caudle and the Estate of E. J. Bell (Clover Hill Industrial Park), substantially complied with the five (5) factors of Section 19-19 of the County Code and resolved to recommend approval of a development standards waiver to Section 19-575 of the Zoning Ordinance requiring screening of outdoor storage, subject to the following condition:

CONDITION

The waiver shall apply to lots within the industrial park that allow outside storage only.

(Note: Any site with outside storage that is visible from outside the industrial park will require plans to mitigate the view of the outside storage.)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04PW0368: In Clover Hill Magisterial District, **LUDOLF W. SIEMENS** requested Planning Commission approval of a development standards waiver of the requirement for curb and gutter adjacent to a paved drive and parking area. This project is commonly known as **MONTESSORI CENTER FOR THE CHILD**.

This request lies in an Agricultural (A) District on a 4.794 acre parcel fronting approximately 480 feet on the southwest line of N. Courthouse Road and better known as 120 and 122 Courthouse Road. Tax ID 743-704-7406 (Sheet 6).

Mr. Ludolf Siemens, the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Bass, the Commission found Case 04PW0368, Ludolf W. Siemens (Montessori Center for the Child), substantially complied with the five (5) factors of Section 19-19 of the County Code and resolved to recommend approval of a development standards waiver to Section 19-514(d)(Part of 1) of the Zoning Ordinance requiring the installation of concrete curb and gutter for a paved parking area and drive, subject to the following conditions and review comments:

CONDITIONS

1. This waiver shall be only for the temporary access drive and nine (9) parking spaces provided. (P)
2. Plans shall be submitted for administrative review that address the following Review Comments. (P)

REVIEW COMMENTS

1. Drainage shall sheet flow in one (1) direction for all of the drive and parking. (EE)
2. Parking blocks shall be provided for each parking space. (P)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

♦ **CASES WHERE THE APPLICANT DID NOT ACCEPT THE RECOMMENDATION AND/OR THERE WAS PUBLIC OPPOSITION OR CONCERN.**

04PM0356: In Bermuda Magisterial District, **DR. SAMUEL W. GALSTAN** requested deferral to July 20, 2004, of consideration for Planning Commission approval for a buffer reduction in conjunction with the approval of a minor site plan for a building addition. This project is commonly known as **GALSTAN DENTAL OFFICE ADDITION**. This request lies in a Neighborhood Business (C-2) District on three (3) parcels fronting approximately 240 feet on the south line of Iron Bridge Road, also approximately 180 feet on the west line of East Booker Boulevard. Tax IDs 780-652-4572, 5268 and 5963 (Sheet 26).

Mr. Oliver D. "Skitch" Rudy, the applicant's representative, requested deferral to the July 20, 2004, Planning Commission meeting.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to defer Case 04PM0356, Dr. Samuel W. Galstan (Galstan Dental Office Addition), to the July 20, 2004, Planning Commission meeting.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04TW0293: In Bermuda Magisterial District, **KEVIN J. HUGHES** requested Planning Commission approval of a development standards waiver to Section 19-510(a)(1) to permit a boat to be parked in the front yard rather than the required rear yard area. This development is commonly known as **MILLSIDE**. This request lies in a MH-2 Manufactured or Mobile Home Subdivision District on a .191 acre parcel located at 17000 Lansmill Drive. Tax ID 801-630-6330 (Sheet 41).

Mr. Kevin Hughes, the applicant, did not accept staff's recommendation, noting compliance with the requirement to park his boat in the rear yard would require the removal of too many trees and result in a substantial devaluation of his property.

Mr. Arthur Ford, President of Millside Homeowners Association, supported Mr. Hughes' request.

Mr. Wilson stated, given the existing buffer conditions on the rear of the property, he felt the applicant was unable to comply with the subdivision plat requirements and that approval of the development standards waiver was appropriate for this case.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission found Case 04TW0293, Kevin J. Hughes (Millside), substantially complied with the five (5) factors of Section 19-19 of the County Code and resolved to recommend approval of a development standards waiver to Section 19-510(a)(1) of the Zoning Ordinance to permit a boat to be parked in the front yard rather than the required rear yard, subject to the following condition:

CONDITION

If a plat is recorded deleting the buffer requirement from this lot, then the development standards waiver shall expire sixty (60) days after such plat is recorded.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

E. FIELD TRIP AND DINNER.

◆ **FIELD TRIP SITE SELECTION.**

The Commission agreed to forego their Field Trip Agenda.

◆ **DINNER LOCATION.**

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission resolved to meet for dinner at John Howlett's Tavern.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

F. ADJOURNMENT.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission adjourned the Work Session at approximately 3:45 p. m., agreeing to meet for dinner at John Howlett's Tavern at 5:00 p. m.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

During dinner, there was discussion pertaining to various rezoning and Conditional Use request sites.

7:00 P. M. EVENING SESSION

At approximately 7:00 p. m., Mr. Gecker, Chairman, called the Evening Session to order.

A. INVOCATION.

Mr. Litton presented the invocation.

B. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.

Miss Kayla Smith, a student at Providence Middle School, led the Pledge of Allegiance to the Flag.

C. REVIEW MEETING PROCEDURES.

Mr. Turner apprised the Commission of the agenda for the next three (3) months, noting the July 20, 2004 agenda was comprised of ten (10) cases, the August 17, 2004 agenda was comprised of fifteen (15) cases and the September 21, 2004 agenda had a total of twelve (12) cases.

D. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

There were no requests to postpone action, emergency additions or changes in the order of presentation.

Mr. Gecker welcomed and introduced Ms. Beverly Lacey, a member of the City of Richmond Planning Commission, who was present.

Mr. Gecker stated, at this time, the Commission wished to recognize Mr. William Poole, Assistant Director for Development Review in the Planning Department, who was retiring after twenty-seven (27) years service, and present him with a resolution recognizing his tenure with the County.

On motion of Mr. Gulley, seconded by Mr. Bass, the Commission adopted the following resolution:

WHEREAS, Mr. Poole was the first Site Planner for the county and since then he has served in numerous capacities in the Planning Department, eventually retiring from the Department as Assistant Director of Planning for Development Review; and

WHEREAS, Mr. Poole was instrumental in selecting and planning numerous public facility sites to include the Northern Area Landfill and Point of Rocks Park; and

WHEREAS, Mr. Poole assisted in the planning and development of Brandermill and the Southport projects, the first two planned development communities in Chesterfield; and

WHEREAS, Mr. Poole was instrumental in orchestrating Countywide rezoning to bring commercial properties into compliance with a modern Zoning Ordinance; and

WHEREAS, Mr. Poole, in 1986 and 1987, lead the preparation of the county's first landscaping and development standards for the Route 10 and Route 360 corridors; and

WHEREAS, Mr. Poole supervised a major rewrite of the Zoning Ordinance to include development standards which have enhanced the quality of life for all Chesterfield citizens; and

WHEREAS, Mr. Poole implemented numerous total quality improvements to development review processes, automation and customer service; and

WHEREAS, Mr. Poole lead many improvements to the county's system of notifying citizens of development, subdivision, site plan and building permit review processes; and

WHEREAS, Mr. Poole has provided extraordinary time and service beyond the typical work week in support of the Commission and citizens; and

WHEREAS, Mr. Poole, has mentored numerous planners who have either stayed with Chesterfield County or gone to other localities to become Planning Directors or County Administrators; and

WHEREAS, Mr. Poole always applied sound planning principals and an ethical and fair-minded approach to development issues; and

WHEREAS, Mr. Poole has participated in various community organizations and activities to enhance the quality of life for many citizens to include service with Chesterfield Alternatives, Habitat for Humanity and Trinity United Methodist Church.

NOW, THEREFORE, BE IT RESOLVED, that the **Chesterfield County Planning Commission** on this **15th day of June 2004** hereby recognizes and honors the contributions of **Mr. William D. Poole** to the Planning Commission and citizens of Chesterfield County.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

Members of the Commission expressed their appreciation to Mr. Poole's for his professional commitment, conscientiousness and dedication to the service of Chesterfield County, his personal commitment to various community organizations in which he had actively participated, his fairness and open-minded work ethic, his patience and willingness to give his time and service in support of the Commission and County citizens to assist them in whatever task they endeavored and wished him success and happiness in his retirement.

Mr. Poole expressed appreciation for the recognition, noting the many accomplishments cited in the resolution had been a team effort.

E. CONSIDERATION OF THE FOLLOWING REQUESTS:

◆ **REQUESTS FOR DEFERRALS BY APPLICANTS.**

04SN0182: In Dale Magisterial District, **LUCAS PROPERTIES, LLC** requested deferral to September 21, 2004, of consideration for rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-40). Residential use of up to 1.09 units per acre is permitted in a Residential (R-40) District. The Comprehensive Plan suggests the property is appropriate for residential use with 1-5 acre lots suited to Residential (R-88) zoning. This request lies on 438 acres fronting approximately 1,100 feet on the south line of Nash Road approximately 3,100 feet northeast of East Fair Drive, also fronting 1,400 feet on the east line of East Fair Drive approximately 450 feet north of Regalia Drive. Tax ID 768-654-1587 (Sheet 25).

Mr. Brennen Keene, the applicant's representative, requested deferral to the September 21, 2004, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Litton, seconded by Mr. Wilson, the Commission resolved to defer Case 04SN0182 to the September 21, 2004, Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04SN0219: In Bermuda Magisterial District, **IRONBRIDGE BOULEVARD LLC** requested deferral to September 21, 2004, of consideration for rezoning and amendment of zoning district map from Neighborhood Business (C-2) and Corporate Office (O-2) to Residential Townhouse (R-TH). Residential use of up to 8.0 units per acre is permitted in a Residential Townhouse (R-TH) District. The Comprehensive Plan suggests the property is appropriate for community mixed use. This request lies on 20 acres fronting approximately 1,100 feet on the north line of Ironbridge Parkway, also fronting approximately 1,300 feet on the west line of Ironbridge Boulevard and located in the northwest quadrant of the intersection of these roads. Tax ID 775-656-4862 (Sheet 25).

Mr. Larry Horton, the applicant's representative, requested deferral to the September 21, 2004, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to defer Case 04SN0219 to the September 21, 2004, Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04SN0255: In Dale Magisterial District, **R. C. WHEELER CONSTRUCTION CO.** requested deferral to September 21, 2004, of consideration for rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51 - 4.0 units per acre. This request lies on 1.1 acre fronting approximately 280 feet on the north line of Cascade Street north of Upp Street. Tax ID 777-688-9030 (Sheets 11 and 12).

Mr. Richard Minter, the applicant's representative, requested deferral to the September 21, 2004, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Litton, seconded by Mr. Wilson, the Commission resolved to defer Case 04SN0255 to the September 21, 2004, Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04SN0257: In Bermuda Magisterial District, **CHESTER DEVELOPMENT ASSOCIATES, L.C.** requested deferral to July 20, 2004, of consideration for rezoning and amendment of zoning district map from Agricultural (A) to Community Business (C-3) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51 - 8.0 units per acre. This request lies on 7.9 acres fronting approximately 435 feet on the south line of De Laval Street and approximately eighty-five (85) feet on the north line of De Laval Street approximately 100 feet east of Womack Road, also fronting approximately 800 feet on the west line of De Laval Street approximately 1,060 feet north of Lee Street. Tax IDs 787-656-3321 and 4161 (Sheet 26).

No one was present to represent the request.

Staff noted the applicant had submitted written documentation, which was on file in the Planning Department, requesting deferral of Case 04SN0257 to the July 20, 2004, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to defer Case 04SN0257 to the July 20, 2004, Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

03SN0332: (Amended) In Matoaca Magisterial District, **FAIRWEATHER INVESTMENTS, LLC** requested deferral to October 19, 2004, of consideration for rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use to permit recreational facilities on up to twenty (20) acres. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use with 1-5 acre lots suited to Residential (R-88) zoning. This request lies on 1,430 acres fronting approximately 11,600 feet on the east line of Nash Road across from Reedy Branch Road, also fronting in three (3) places for 7,050 feet on the west line of Cattail Road across from Reedy Branch and Rowlett Roads. Tax ID 759-636-6377 (Sheets 33 and 40).

Mr. John Cogbill, III, the applicant's representative, requested deferral to the October 19, 2004, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Bass, seconded by Mr. Litton, the Commission resolved to defer Case 03SN0332 to the October 19, 2004, Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

◆ **REQUEST FOR DEFERRAL BY INDIVIDUAL PLANNING COMMISSIONER.**

04SN0227: In Dale Magisterial District, **GELLETLY & ASSOC.** requested rezoning and amendment of zoning district map from Agricultural (A), Residential Townhouse (R-TH) and Light Industrial (I-1) to Residential Townhouse (R-TH) with Conditional Use Planned Development to permit use and bulk exceptions. Residential use of up to 8.0 units per acre is permitted in a Residential Townhouse (R-TH) District. The Comprehensive Plan suggests the property is appropriate for light industrial use. This request lies on 166.4 acres fronting in four (4) places for approximately 4,500 feet on the north line of Courthouse Road, fronting approximately 1,250 feet on the east line of Doublecreek Court and also fronting approximately 6,600 feet on the south line of Route 288 and located in the northeast quadrant of the intersection of Courthouse Road and Doublecreek Court. Tax IDs 763-670-8636, 765-668-7392, 766-668-4150, 767-666-7026 and 767-667-5055 (Sheets 17 and 25).

Mr. Litton stated he wished to defer Case 04SN0227 to the July 20, 2004, Planning Commission meeting to address park issues.

Mr. Andy Scherzer, the applicant's representative, indicated deferral by Mr. Litton to the July 20, 2004, Planning Commission meeting was acceptable.

There was no opposition to the deferral.

The following motion was made at Mr. Litton's request.

On motion of Mr. Litton, seconded by Mr. Wilson, the Commission, on their own motion, resolved to defer Case 04SN0227 to the July 20, 2004, Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

◆ **REQUESTS WHERE THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO OPPOSITION PRESENT.**

04SN0247: In Bermuda Magisterial District, **BOZE INVESTMENT, LLC** requested rezoning and amendment of zoning district map from Light Industrial (I-1) to General Industrial (I-2). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial use. This request lies on 2.0 acres fronting approximately 280 feet on the west line of Old Stage Road approximately 2,200 feet north of West Hundred Road. Tax ID 803-656-2356 (Sheet 27).

Mr. John Easter, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 04SN0247 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

The property owner and applicant in this rezoning case, pursuant to section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the property under consideration (the "Property") will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owner and applicant. In the event the request is denied or approved with conditions not agreed to by the owner and applicant, the proffers shall be immediately null and void and of no further force or effect.

1. **Uses Permitted on the Property.** The following uses shall be permitted on the Property:
 - a. Any use permitted in Light Industrial (I-1) District; and
 - b. Tractor-trailer service stations. (P)
2. **View from Old Stage Road.** The view of any structures or equipment used for a tractor trailer service station from Old Stage Road shall be minimized to the extent practicable, using a berm, vegetation, or other screening material. The exact nature and location of such materials shall be subject to review and approval by the Planning Department at time of site plan approval. (P)
3. **Public Water and Sewer.** Any development on the Property other than an unattended tractor-trailer service station shall be served by public water and sewer. (U)
4. **Right-of-Way Dedication.** Prior to any site plan approval, thirty-five (35) feet of right-of-way on the west side of Old Stage Road, measured from the centerline of that part of Old Stage

Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)

5. Road Ditch Relocation. Prior to issuance of an occupancy permit, the ditch along the west side of Old Stage Road shall be relocated to provide an adequate shoulder for the entire property frontage, and additional pavement shall be constructed along Old Stage Road at the approved access to provide left and right turn lanes, if warranted based on Transportation Department standards. The developer shall dedicate to Chesterfield County, free and unrestricted, any additional right-of-way (or easements) required for these road improvements. (T)
6. Access. Direct access from the property to Old Stage Road shall be limited to one (1) entrance/exit. The exact location of this access shall be approved by the Transportation Department. Prior to any site plan approval, an access easement, acceptable to the Transportation Department, shall be recorded from Old Stage Road to the adjacent property to the south. (T)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04SN0248: In Bermuda Magisterial District, **BRANDERS BRIDGE LLC** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with relief to access provisions. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51 - 4.0 units per acre. This request lies on 86.9 acres lying approximately 625 feet off the western terminus of Cougar Trail. Tax IDs 791-636-9012 and 791-635-Part of 3704 (Sheets 34 and 41).

Mr. Litton stated his employer, Austin Brockenbrough and Associates, was the engineering firm for this application, declared a conflict of interest pursuant to the Virginia Conflict of Interest Act and excused himself from the meeting at approximately 7:22 p. m.

Mr. John Easter, the applicant's representative, accepted staff's recommendation, noting the applicant had submitted revisions to the request, including withdrawal of the exception to access provisions and amendments to the proffered conditions withdrawing Proffered Condition 4, which referenced the dedication of parkland and replacing it with a new Proffered Condition 4 which would prohibit construction traffic from using Harrow Drive, under certain circumstances.

Mr. Gecker stated he was not inclined to support the development standards waiver requesting relief to the provision of a second means of public access to the property.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 04SN0248 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

The property owner and applicant in this rezoning case, pursuant to section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the property under consideration (the "Property") will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owner and applicant. In the event this request is denied or approved with conditions not agreed to by the owner and applicant, the proffers shall immediately be null and void and of no further force or effect.

1. Timbering. With the exception of timbering to remove dead or diseased trees which has been approved by the Virginia State Department of Forestry, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed in accordance with The Forestry Best Management Practices for Water Quality in Virginia. (EE)
2. Maximum Number of Dwellings. The overall number of dwellings for the entire Property shall not exceed 120 units. (P)
3. Cash Proffer. Prior to the time of issuance of a building permit for each new dwelling unit, the applicant, subdivider, or its assignee, shall pay to the County of Chesterfield the following amounts for infrastructure improvements within the service district for the Property:
 - a. if payment is made prior to July 1, 2004, \$9000; or
 - b. if payment is made after June 30, 2004, the amount approved by the Board of Supervisors, but not to exceed the \$9000 per dwelling unit as adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2003 and July 1 of the fiscal year in which the payment is made.

If any of the cash proffers are not expended for the purposes designated by the Capital Improvement Program within fifteen (15) years from the date of payment, they shall be returned in full to the payor. Should Chesterfield County impose impact fees at any time during the life of the development that are applicable to the Property, the amount paid in cash proffers shall be in lieu of or credited toward, but not be in addition to, any impact fees, in a manner determined by the County. (B and M)

4. No Construction Traffic. Unless access to the Property from Cougar Trail cannot be obtained, for a period of three (3) years from initial development of the Property, no construction traffic shall use Harrow Drive for access to or from the Property. (P)
5. Transportation. In conjunction with development of any lots with access to Harrow Drive, additional pavement shall be constructed along Harrowgate Road at the Harrow Drive intersection to provide a right turn lane. The developer shall dedicate to Chesterfield County, free and unrestricted, any additional right-of-way (or easement) required for this improvement. (T)

AYES: Messrs. Gecker, Wilson, Gulley and Bass.
ABSENT Mr. Litton.

Mr. Litton returned to the meeting at approximately 7:27 p. m.

04SN0249: In Bermuda Magisterial District, **GREENBRIAR DEVELOPMENT LLC** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51 - 4.0 units per acre. This request lies on 31.6 acres fronting approximately 225 feet on the north line of Heritage Drive approximately 1,670 feet west of Harrowgate Road, also lying at the eastern terminus of Horseshoe Bend Drive. Tax IDs 791-640-6935, 792-639-Part of 1731 and 792-640-Part of 5335 (Sheet 34).

Mr. Larry Horton, the applicant's representative, accepted staff's recommendation.

Since there was opposition present, it the consensus of the Commission to place Case 04SN0249 with those cases requiring discussion.

04SN0258: In Bermuda Magisterial District, **ROBERT REID AND MELODY REID** requested rezoning and amendment of zoning district map from Agricultural (A) to General Industrial (I-2). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial use. This request lies on 1.4 acres fronting approximately 145 feet on the west line of Happy Hill Road approximately 1,460 feet northeast of Jefferson Davis Highway. Tax ID 800-632-3880 (Sheet 41).

Mr. Oliver D. "Skitch" Rudy, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 04SN0258.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04SN0259: In Midlothian Magisterial District, **WELCO, LLC** requested rezoning and amendment of zoning district map from Community Business (C-3) to General Business (C-5) of 0.8 acre plus proffered conditions on an adjacent 0.9 acre tract currently zoned General Business (C-5). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for community mixed use. This request lies on 1.7 acres fronting approximately 300 feet on the west line of Turner Road approximately 690 feet south of Midlothian Turnpike. Tax IDs 762-705-1190, 2994, 3285 and 3475 (Sheet 7).

Mr. Welford Maxie, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission resolved to recommend approval of Case 04SN0259 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. Screening of Loading Areas. Screening of loading areas for any self-storage facility from adjacent properties shall be achieved through the positioning of the self-storage buildings in a compound-like manner such that the walls of the buildings closest to these adjacent properties shall be generally parallel to the adjacent boundary lines. (P)
2. Setbacks. A minimum setback of twenty (20) feet for buildings, drives and parking areas shall be established from the boundaries of Tax IDs 762-705-3285 and 3475 where adjacent to Tax ID 762-705-2043 (Cloverleaf Office Park). Within these setbacks, Perimeter Landscape C shall be provided in accordance with Ordinance requirements. (P)
3. Uses. Uses shall be limited to those uses permitted by right or with restrictions in the Community Business (C-3) District as well as self-storage facilities. (P)
4. Prior to any site plan approval, forty-five (45) feet of right-of-way on the west side of Turner Road, measured from the centerline of that part of Turner Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
5. Direct access from the property to Turner Road shall be limited to two (2) entrances/exits. The exact location of these accesses shall be approved by the Transportation Department. (T)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04SN0266: In Bermuda Magisterial District, **SKINQUARTER INVESTMENTS, LLC** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 1.5 units per acre or less. This request lies on 22.5 acres fronting approximately 670 feet on the south line of Southcreek Drive south of Jumping Mallard Place and Broadbill Drive. Tax ID 805-640-2659 (Sheet 35).

Mr. N. G. Horner, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 04SN0266 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. Public water and wastewater systems shall be used. (U)

2. The applicant, subdivider, or assignee(s) shall pay the following for dwelling units developed to the County of Chesterfield prior to the issuance of building permit for infrastructure improvements within the service district for the property:
 - a. \$9000.00 per dwelling unit, if paid prior to July 1, 2004: or
 - b. The amount approved by the Board of Supervisors not to exceed \$9000.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2003 and July 1 of the fiscal year in which the payment is made after June 30, 2004.
 - c. In the event the cash proffer is not used for the purpose for which proffered within 15 years of receipt, the cash shall be returned in full to the payer. (B & M)
3. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the property until a land disturbance permit has been obtained from the Environmental Engineering Department and approved devices have been installed. (EE)
4. Minimum Lot Size. Each lot shall have a minimum area of 18,000 square feet. (P)
5. Average Lot Size. The overall average lot size shall be a minimum of 22,000 square feet. (P)
6. Density. A maximum of 1.5 dwelling units per acre shall be permitted. (P)
7. Communication with Southcreek Homeowners Association. The Owner shall be responsible for notification, by registered, certified or first class mail, to the last known representative on file with the Chesterfield County Planning Department of the Southcreek Homeowners Association of the submission of any tentative subdivision plan. Such notification shall occur as soon as practical, but in no event less than twenty-one (21) days prior to approval or disapproval of any tentative subdivision plan. The Owner shall provide the Planning Department with evidence that such notice was sent. (P)
8. Covenants, Conditions and Restrictions. At a minimum, the following restrictive covenants shall be recorded prior to or in conjunction with the recordation of any subdivision plat of the Property:
 1. No lots shall be used except for single-family residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed three stories in height and one private garage for not more than two cars.
 2. Only one residence shall be erected or placed on a single lot, and no lot shall, after its original conveyance, be subdivided into smaller lots or parcels. No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a

residence either temporarily or permanently. Eighteen wheel tractor trailers are prohibited from being parked on or maintained on any lot at anytime.

3. No nuisance, obnoxious, or offensive activities shall be permitted to exist or operate upon any portion of any property so as to be detrimental to or interfere with any other property in the vicinity there or to its occupants.
4. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Nor shall any of the above be kept on any lot except in sanitary containers, in the rear yards only.
5. No animals, livestock, hogs, pigs or poultry of any kind, shall be raised, bred, or kept on any lot except that dogs, cats, or other household pets may be kept therein if they are not kept, bred or maintained for any commercial purpose, and in accordance with the applicable ordinances. For the purpose herein pigs and/or hogs, including, but not limited to "pot belly" pigs are not household pets.
6. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale or rent, unless approved by the Architectural Control Committee in writing.
7. An Architectural Control Committee (herein called "Committee") originally composed of three (3) members is hereby established. Any two members of the Committee may act on behalf of the Committee without holding a meeting of the full Committee or giving notice to the other members. The members of the Committee shall receive no compensation for acting hereunder.
8. No improvement shall be erected, placed or altered on any lot until the construction plan thereof, and a plan showing the location of the said improvement shall have been submitted to and approved by the Architectural Control Committee. No construction on said improvements shall commence until the said plans and location of said improvements shall have been approved by the Committee in writing. The Committee reserves the right to request such information and data as may be necessary to make said determination. Prior to the commencement of any improvements, written approval may be withdrawn at any time by the Committee by giving written notice to said party of its withdrawal of said approval. The Committee approval as required above shall be in writing and, in the absence of such written approval, construction plans and location plans shall be considered as disapproved. The building location on all lots shall be within the applicable County zoning ordinance, and at the discretion of the said Committee.
9. There shall be no clearing or other disturbances of the area within the 100 year flood plan except utility and drainage easements. The flood plan and creek areas shall otherwise remain in their present natural state.

10. The foundation of all single family residences on any lot shall be constructed of brick only on all front exterior walls, unless otherwise approved by the Committee. No exposed cinder or concrete block exterior walls or foundations shall be erected. All single family residences must have some exterior appurtenance on either the front or side elevations, such as covered stoops, covered porches or decks. These exterior appurtenances must be a minimum of 40 square feet. All one and one-half story cape style single family residences shall have at least one dormer window.
11. All single family residence shall conform to a Colonial, Traditional, or Transitional architectural style. No aluminum siding will be used, with the exception of aluminum trim. The roof pitch on all single-family residences, except for covered porches shall have a minimum of six inches of rise for every foot. Dimensional shingles shall be used on all residences.

All single family residences shall have the following minimum square footage:

 - a) The floor area of a single story, ranch style single family residence shall not be less than 1,600 square feet.
 - b) The floor area of any one and one half story, cape cod style residence shall not be less than 1,700 square feet.
 - c) The floor area of any two-story residence shall not be less than 1,800 square feet.
 - d) Attached porches, covered stoops, breezeways, and garages shall not be included in computing minimum square footage.
12. No ranch single family residence shall be built on a lot adjacent to another single family ranch style residence.
13. The exterior of all houses and other structures must be completed within one year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities. Houses may not be temporarily or permanently occupied until the exteriors thereof have been completed unless permitted by prior written approval of the Architectural Control Committee and evidence that a Certificate of Occupancy has been issued by Chesterfield County. During the continuance of construction the owner of the lot shall require the contractor to maintain the lot in a reasonably clean and uncluttered condition.
14. Only mailboxes, newspaper tubes, lamp posts, and driveway materials meeting the design standard of the Architectural Control Committee shall be permitted. The Declarant reserves the right to establish mandatory uniform regulations to

govern the erection and/or alteration of same in the subdivision. Such uniform regulations will be administered through the Architectural Control Committee.

15. Unless approved by the Architectural Control Committee, no antenna, aerial or device of any kind used for the purpose of transmitting or receiving radio, television, microwave or satellite signals shall be placed or erected on any lot or on the exterior of any residence or any other building or structure thereon.
16. No fence shall be permitted between the single family residence and the street line (front yard). Split rail fences or other wooden fences may be built between the rear of the house and the rear lot line (rear yard). The split rail fences may be backed with approved wire to provide animal retention. There shall be no other metal or chain link fences permitted.
17. Clothes lines or other clothes drying apparatus shall be screened from public view in a manner approved by the Architectural Control Committee.
18. Where possible and conditions permit, there will be no strip clearing of all trees from any lot. Anyone erecting improvements on the said lots must strive to leave natural tree buffer on both the rear and sides of all lots. However, brush and scrub trees under six inches in diameter may be removed from all lots if so desired.
19. Utility storage sheds or tool sheds shall have an exterior texture and color that matches the exterior texture and color of the residence on said lot and must be placed between rear line of the residence and the rear lot line.
20. Easements for installation and maintenance of utilities and drainage are reserved as shown on said subdivision plat.
21. The Declarant, while it may during the course of the development of the Property subject or to be subjected to the covenants, conditions and restrictions herein set forth, may undertake to maintain certain areas within the rights of way and/or easements within said development. Said conduct on the part of the Declarant shall not be deemed to impose any continuing liability on the Declarant to do so and the Declarant reserves to themselves at all times the right to discontinue any such maintenance.
22. Prior to the rights of way, easements and roads being accepted by the Virginia Department of Transportation, and the County of Chesterfield road systems, no alterations, additions or improvements shall be made within the rights of way and/or easements including, but not limited to driveway culvert areas, ditches and where driveways tie into the roadways. At such time the rights of way, easements and roadways are in the Virginia Department of Transportation and Chesterfield County systems all necessary permits and approvals must be obtained from any and all required government departments and/or agencies and the Committee.

23. Areas designated as Common Areas, Private Drainage Easement, and/or BMP facility on the are real property owned by Skinquarter Investments LLC., a Limited Liability Company or the Southcreek Homeowners Association for the use and enjoyment of the lot owners of Southcreek Subdivision. Ownership of the Common Area shall be conveyed to Southcreek Homeowners Association by a deed from Declarant at such time as ninety percent (90%) of the lots in Southcreek have been conveyed to homeowners, or January 1, 2006, whichever occurs first.

Every lot owner shall have the right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot.

Declarant, for each lot owned in Southcreek, hereby declares and covenants that every homeowner upon accepting a deed to a lot will automatically become a member to the Southcreek Homeowners Association (The "Association"). Furthermore, by acceptance of said deed, whether or not it shall be so recited in each deed, each homeowner is deemed to covenant and agrees to pay annual assessments to the Association. The assessments levied by the Association shall be used exclusively for the improvement and maintenance of the Common Area, right of ways, easements and for the maintenance of the BMP facility per the BMP Facility Agreements recorded with the Clerk of the Circuit Court, Chesterfield County in Deed Book 2965, Page 608, Deed Book 2965 Page 614, Deed Book 2306, Pages 1532 through 1536 and any future BMP Facilities in Southcreek. Nothing contained herein shall create a duty on the part of Declarant to make any such improvements. The Association shall pay any real estate taxes and other charges assessed against the Common Area.

The maximum annual assessment shall be (a) Beginning October 1, 1993 the maximum annual assessment shall be \$120.00 per lot on which there exists completed improvements as determined by the issuance by the appropriate governmental authority of a Certificate of Occupancy; (b) From and after January 1, 1994 the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership of the Association of fifteen percent (15%) of the Association members, voting in person or by the proxy, at a meeting called for such purpose; (c) The Board of Directors of the Association may fix the annual assessment at any amount not in excess of the maximum.

The annual assessments, together with the cost of collecting delinquent assessment such as interest, court costs and reasonable attorney fees shall be a charge on the land and will be a continuing lien upon the real estate (lot) against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall be the personal obligation of the person who was the owner of such lot when the assessment became due. Any assessment not paid within thirty (30) days after the due date shall bear interest at the rate of ten percent (10%). The Association may bring an action at law against the lot and/or the owner(s) thereof. The Board of Directors of the Association shall

fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period and so notify in writing each lot owner of such. The due date shall be established by the Board of Directors of the Association. The Association shall upon request, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessments on a specified lot have been paid.

Any assessments, charges and cost of the maintenance of such Common Area shall constitute a lien on the individual lots inferior in lien and dignity only to real estate taxes and bona fide duly recorded first deeds of trust on each lot. Sale or transfer of any lot shall not affect the assessment lien, however the sale or transfer of any lot pursuant to a first deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot for any assessment thereafter becoming due or from the lien thereof.

24. Each and every covenant, condition and easement herein imposed may be enforced by the undersigned or by the owner of any lot by appropriate proceedings at law or in equity against any party violating or attempting or threatening to violate the same.
25. Invalidation of any one of these covenants or conditions by judgment or court adjudication or otherwise shall in no way modify, affect, or invalidate any of the other remaining covenants and conditions herein contained which shall remain in full force and effect.
26. Declarant and successor or assigns hereby expressly reserve the right to release or modify in part any of the restrictive covenants or conditions contained herein.
27. The covenants and conditions herein contained, unless expressly released or modified, shall run with the land and shall be binding upon the owner or owners of each and every lot, and all parties claiming through or under each such owner or owners for a period of 25 years from the date of the recordation hereof, after which period such covenants and conditions shall be automatically extended for successive periods of ten years each, unless prior to the expiration of said period, an instrument executed and acknowledged by the then owners of the majority of all the lots be recorded in the appropriate Clerk's Office revoking the said covenants and conditions, at which time the covenants and conditions shall cease and have no further effect at the end of the applicable extension period. (P)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

- ◆ **CODE AMENDMENTS RELATING TO:**
 - ◆ **STANDARDS FOR FAMILY SUBDIVISIONS AND OUTDOOR VEHICLE STORAGE AS ACCESSORY TO WAREHOUSES IN I-1 DISTRICTS.**



An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and re-enacting the following Sections:

17-2 and 17-46 to increase standards for family subdivisions to minimize circumvention of the Subdivision Ordinance; require land to be owned by the family member for five (5) years prior to a family division; require land to be owned by the family member for five (5) years after a family division; require affidavits of intent; establish legal presumptions regarding violations; establish penalties, restrictions and corrective measures for violations of the family division process and require warning language on plats to alert future property owners of the family division restrictions.

19-181 and 19-185 to permit outdoor vehicle storage, accessory to warehouses, as a restricted use in I-1 districts.



Mr. Poole presented an overview of the proposed amendments, including suggested revisions discussed at the Commission's Work Session, and staff's recommendation.

Mr. Gecker opened the discussion for public comment.

Mr. Gordon Bowers, a businessman in the County, addressed Section 19-181(h)(5) relative to vehicle storage yards and requested the section be deleted as it arbitrarily precluded the storage of vehicles based on height rather than their location within the project.

There being no one else to speak, Mr. Gecker closed the public comment.

There was discussion relative to modifications as suggested by staff and the Commission; etc.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission resolved to recommend approval of the following Code Amendment:

(1) That Sections 17-2, 17-46, 19-181 and 19-185 of the Code of the County of Chesterfield, 1997, as amended, are amended and re-enacted to read as follows:

[Amendment 2. (a)]

17-2. Definitions

Subdivision, residential parcel: The division, per article II division IV, of any parcel of land for residential use, into two (2) or more parcels all of which are more than five (5) acres, and which:

o o o

(a) Residential parcel subdivisions shall include:

Family subdivisions which shall be defined as a single division of land to create a lot or a parcel for the purpose of a sale or gift to a member of the immediate family of the property owner including a partition of property owned by immediate family members. Only one such division shall be allowed per family member and shall not be for the purpose of circumventing this chapter. For the purpose of this subsection, a member of the immediate family shall be defined as any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent or parent of the owner. Family subdivisions shall comply with all applicable requirements of the zoning ordinance and the standards set forth in this chapter. Access shall be provided as required by the Code of Virginia.

Family subdivisions shall comply with the following requirements:

- (i) The property owner requesting approval of a family subdivision shall have owned the property for a continuous period of not less than five (5) years immediately preceding the filing of the family subdivision application. This subsection shall not apply in the case of the death of the owner, and the estate executor or administrator shall be permitted to transfer the property to any eligible family member(s) of the decedent as defined in subsection (a) for the purposes of facilitating the family subdivision. Upon application, the director of planning may grant relief to this five (5) year retention period in cases of severe hardship including foreclosure, judicial sale, condemnation, bankruptcy or permanent relocation by the owner out-of-state. This subsection shall apply only to property acquired by the owner subsequent to [date of adoption].
- (ii) Lots or parcels created through a family subdivision shall be titled in the name of the original recipient for whom the subdivision is made for a period of not less than five (5) years. Upon application, the director of planning may grant relief to this five (5) year retention period in cases of severe hardship including foreclosure, death, judicial sale, condemnation, bankruptcy or permanent relocation by the owner out-of-state. Additionally, the director of planning may approve the transfer of property between eligible family members as defined in subsection (a) within the five (5) year retention period. Any such relief granted by the director shall be in the form of an instrument that the applicant shall record against the parcel in the land records of the Circuit Court.
- (iii) Family subdivisions that do not comply with these requirements shall be presumed to have intended at the time of approval to circumvent this chapter and shall be deemed to be in violation of section 17-6. Any such lots or parcels shall be denied a building permit and, if a building permit has already been issued, shall upon discovery be subject to provisions of section 17-12 and 17-13. Further, the director of planning may take any reasonable actions necessary to ameliorate the effect of such circumvention including, without limitation, requesting the board of supervisors to adopt an ordinance pursuant to state law that vacates the subdivision in whole or in part.
- (iv) All proposed plats for family subdivisions shall include on the plat an affidavit under oath and penalty of perjury from the proposed grantor that identifies the

subdivision as being for the purposes of conveyance to a qualifying family member and identifies the receiving family members and their relationship to the grantor.

- (v) All family subdivision plats must contain a conspicuous note containing the following language:

"The Chesterfield County Subdivision Ordinance requires the original recipient of a parcel or lot created by a family subdivision to retain ownership of the property for not less than five years unless granted relief by the director of planning. Any violation of this requirement shall be presumed to constitute a circumvention of the subdivision ordinance and may result in corrective action taken by the County including, without limitation, imposition of applicable penalties, denial of building permits, and/or vacation of the subdivision."

Sec. 17-46. Residential parcel subdivision and parcel line modification plat requirements.

o o o

- (3) The record plat shall graphically show the following:

o o o

- i. An affidavit under oath and penalty of perjury from the proposed grantor that identifies the subdivision as being for the purposes of conveyance to a qualifying family member and identifies the receiving family members and their relationship to the grantor.
- j. A note stating "The Chesterfield County Subdivision Ordinance requires the original recipient of a parcel or lot created by a family subdivision to retain ownership of the property for not less than five years unless granted relief by the director of planning. Any violation of this requirement shall be presumed to constitute a circumvention of the subdivision ordinance and may result in corrective action taken by the County including, without limitation, imposition of applicable penalties, denial of building permits, and/or vacation of the subdivision."

[Amendment 2. (d)]

Sec. 19-181 Uses permitted with certain restrictions

The following uses shall be permitted in the I-1 District subject to compliance with the following conditions and other applicable standards of this chapter. If the following restrictions cannot be met, these uses may be allowed by conditional use, subject to the provisions of section 19-13:

o o o

- (h) Vehicle storage yards provided that:

- (1) Such use is accessory to the operation of a warehouse or mini-warehouse facility,
- (2) The portion of the warehouse or mini-warehouse facility used for vehicle storage yards is screened as follows:
 - a. The view of vehicle storage yards need not be screened from properties in I-2 or I-3 districts or from existing outside storage areas on adjacent properties
 - b. Except as noted above, the view of vehicle storage yards shall be screened from public roads and adjacent properties where outside storage is permitted. Screening shall be accomplished by building layout or durable architectural walls or fences constructed of comparable materials and using a design compatible to the warehouse building(s) on the property unless the director of planning determines that:
 - (i) Berms or other land forms can be installed that provide screening which meets the spirit and intent of the zoning ordinance; and
 - (ii) The berms or land forms are part of the natural terrain or integrated to appear that they are part of the natural terrain.
 - c. Except as noted above, the view of vehicle storage yards shall be screened from adjacent properties in R, R-TH, RMF, O, MH or I-1 districts and from adjacent properties in an A district that is designated on the comprehensive plan for R, R-TH, RMF, A, O, MH or I-1 districts. Screening shall be accomplished by a compound design such that warehouse buildings block the view of the vehicle storage area. Openings between buildings shall be permitted for underground utilities, fire code requirements and unique site constraints. Views of vehicle storage areas through such openings shall be precluded through the use of screening walls constructed of comparable materials and using a design compatible to the warehouse building(s) on the property.
- (3) No outdoor vehicle maintenance is permitted,
- (4) No vehicle sales are permitted,
- (5) No vehicle shall be stored that exceeds the height of the surrounding warehouse buildings, walls or fences.

Sec. 19-185. Required conditions.

In addition to the other requirements of this chapter, the conditions specified in this section shall be met in the I-1 District.

- (a) All uses, including storage, shall be conducted entirely within an enclosed building, except for accessory parking, loading and unloading facilities, and vehicle storage as allowed per section 19-181(h).

0 0 0

(2) *That this ordinance shall become effective immediately upon adoption.* (1923:65486.2-Revised 06/15/04 9:30 AM)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

Mr. Turner recalled Case 04SN0249, Greenbriar Development LLC.

04SN0249: In Bermuda Magisterial District, **GREENBRIAR DEVELOPMENT LLC** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51 - 4.0 units per acre. This request lies on 31.6 acres fronting approximately 225 feet on the north line of Heritage Drive approximately 1,670 feet west of Harrowgate Road, also lying at the eastern terminus of Horseshoe Bend Drive. Tax IDs 791-640-6935, 792-639-Part of 1731 and 792-640-Part of 5335 (Sheet 34).

Ms. Orr presented an overview of the request and staff's recommendation.

Mr. Larry Horton, the applicant's representative, accepted staff's recommendation, noting the proposed zoning and land use complied with the Southern and Western Area Plan and was the highest and best use for the property.

Mr. Gecker opened the discussion for public comment.

Mr. Mike Uzel, a realtor and representative for the Heritage Drive Neighborhood Association; Mr. Ed Papas, a resident of Horseshoe Bend Drive; and Ms. April Powell, a resident of Heritage Drive, submitted letters, petitions of opposition and a catalog of artifacts recovered from historical sites in the area, citing concerns relative to increased traffic volumes and safety hazards that would be generated by the development; existing substandard road conditions; unsafe turning conditions and insufficient pavement width along area roads; cut-through traffic; destruction of wildlife habitats; overcrowded schools; environmental concerns regarding potential runoff and flooding; and the detrimental impact to the existing "quality of life" and "rural" characteristics of the community.

There being no one else to speak, Mr. Gecker closed the public comment.

In response to questions from the Commission, staff addressed concerns relative to overcrowded school conditions; future construction and/or renovation of area schools; funding for road construction and/or improvements and other concerns.

Mr. Bass expressed concerns relative to the existing and future challenges facing the County's school and transportation networks in this area.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 04SN0249 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. The public water and wastewater systems shall be used. (U)
2. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
3. All exposed portions of the foundation of each dwelling unit shall be faced with brick or stone veneer. (BI & P)
4. The minimum gross floor area for one (1) story dwelling units shall be 1,600 square feet and dwelling units with more than one story shall have a minimum gross floor area of 1,800 square feet. (BI & P)
5. The applicant, subdivider or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of building permit for infrastructure improvements within the service district for the property:
 - a. \$9,000 per dwelling unit, if paid prior to July 1, 2004; or
 - b. The amount approved by the Board of Supervisors not to exceed \$9,000 per dwelling unit adjusted upward by any increases in the Marshall and Swift Building Cost Index between July 1, 2003, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2004.
 - c. In the event the cash payment is not used for the purpose for which proffered within fifteen (15) years of receipt, the cash shall be returned in full to the payor. (B&M)
6. No direct access shall be provided from the property to Heritage Drive. (T & P)
7. The overall acreage lot size of the development shall be a minimum of 20,150 square feet. (P)
8. The development shall not exceed a density of 1.85 dwelling units per acre. (P)

AYES: Messrs. Gecker, Litton, Wilson and Gulley.
NAY: Mr. Bass.

◆ **PREVIOUSLY CONSIDERED ITEM – CASE 04SN0205, THEODORE BALSAMO.**

04SN0205: In Matoaca Magisterial District, **THEODORE BALSAMO** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per

acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 138.7 acres fronting approximately 2,300 feet on the south line of Genito Road approximately 770 feet west of Mt. Hermon Road. Tax IDs 699-690-5223, 700-688-4363 and 701-689-Part of 1119 (Sheet 8).

Ms. Orr presented an overview of the request and staff's recommendation, noting that on June 15, 2004, the applicant submitted additional and revised proffered conditions in response to concerns expressed by the County Attorney and Commission members. She stated revised Proffered Condition 3 increased the buffer along Genito Road from fifty (50) foot as required by the Subdivision Ordinance, to 100 feet; revised Proffered Condition 4 decreased the total number of residential dwelling units allowed on the property from 254 to 248 dwelling units; and revised Proffered Condition 2 and the additional Proffered Condition 20 addressed the impacts of the development on capital facilities in accordance with the Board of Supervisors' Policy and to afford the Transportation Department the option to accept a lump sum payment towards Genito Road improvements while still providing full cash payment towards the impact on schools, parks, libraries and fire protection consistent with the Board of Supervisors' Policy.

Mr. Andy Scherzer, the applicant's representative, addressed the revised and additional proffered conditions submitted and stated the proposal was compatible with development in the immediate area; provided extensive road improvements, a trail system, pedestrian access, future street access to the west of the property; adhered to the water quality requirements of the Upper Swift Creek Plan; and would be a first class, quality development.

Mr. Gecker opened the discussion for public comment.

Mr. Phillip Halsey, representing the trustee of adjacent property, voiced support for the rezoning.

Mr. Caleb Johnson, a County resident, presented the Commission with petitions signed by 269 concerned citizens, which he requested be added to the previously submitted 1,500 petitions from the Task Force for Responsible Growth and the approximately 300 petitions submitted in April 2004, all of which opposed additional growth within the Upper Swift Creek area.

In response to Mr. Johnson's request, ~~When asked,~~ approximately 100 individuals stood in opposition to the proposal.

~~Mr. Caleb Johnson,~~ Ms. Kayla Siwieg, Mr. Bruce Moseley, Mr. Paul Strehler, Ms. Julie Bergeron, Mr. Larry Hollester, Ms. Barbara Hollester, Mr. Peter Martin, Mr. Nat Wooding, Mr. Mike Kirk, Ms. Jenna Barbee, Mr. Justin Bryson, Mr. Ted Lushch, Ms. Kathy Kirk, Mr. Billy Barbee, Mr. David Walker, Mr. Bill Hastings, Dr. Betty Hunter-Clapp, Ms. Kitty Snow, Ms. Marlene Durfee, Mr. Patrick Spraker, Mr. Jane Jones, and Mr. Robert Huddleston, area residents and members of community associations and/or environmental groups, submitted letters and petitions and presented a PowerPoint presentation in opposition to the request, citing concerns relative to lack of sufficient public facilities (water and sewer) to accommodate the development; cash proffers being insufficient to pay for additional future infrastructures to serve the property; substandard and deteriorating road conditions without sufficient current and/or future funding to accommodate maintenance, repair or replacement; adverse impact to environmental and ecological elements; maintaining the rural character and integrity of the community; and other concerns.

There being no one else to speak, Mr. Gecker closed the public comment at approximately 10:24 p. m.

The Commission recessed at approximately 10:24 p. m.

The Commission reconvened at approximately 10:35 p. m.

In rebuttal, Mr. Scherzer addressed concerns cited by the speakers, reiterated his client's commitment to development of a quality project and asked the Commission to consider a favorable recommendation on the request.

Mr. Bass made a motion, seconded by Mr. Gulley, to deny Case 04SN0205.

Mr. Gulley stated he respectfully disagreed with staff that the request was in compliance with the Upper Swift Creek Plan; felt that approval of the request would only serve to exacerbate an existing appalling situation; that he agreed with the various speakers relative to the lack of sufficient infrastructure and/or road improvement funding to accommodate the development; and that he supported denial of the request based on health, safety and welfare concerns, specifically those related to roads and fire/emergency services response times.

Mr. Wilson stated he believed the request complied with the Plan and he felt the proffered conditions adequately addressed the public facilities needs.

Mr. Litton stated he also believed the request complied with the Plan and the funding generated by the proffered conditions would benefit capital facilities, especially transportation and park facilities.

Mr. Gecker stated he appreciated the participation of all those involved in the process; that he believed the regulation of land use was beneficial to the County; that the Cash Proffer Policy was designed to address capital facilities needs and would assist the County in its efforts to catch up with public facilities needs; and that he supported the request.

Mr. Bass cited concerns relative to the lack of utilities to serve the proposed development and surrounding area; the impact of the development on transportation and schools; and other concerns. He stated he felt approval of the request was a big mistake that would haunt the County long-term.

The vote on Mr. Bass's motion to deny the request was as follows:

AYES: Messrs. Gulley and Bass.
NAYS: Messrs. Gecker, Litton and Wilson.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 04SN0205 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. The public water and wastewater systems shall be used. (U)
2. A. Prior to the time of issuance of a building permit for each dwelling unit, the applicant, subdivider, or assignee(s) shall pay to the County of Chesterfield the

following amounts for infrastructure improvements within the service district for the property:

- a. if payment is made prior to July 1, 2004, \$9,000.00; or
 - b. if payment is made after June 30, 2004, the amount approved by the Board of Supervisors not to exceed \$9,000.00 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2003, and July 1 of the fiscal year in which the payment is made.
- B. At the option of the Transportation Department exercised pursuant to proffer no. 20 below, and in lieu of the amounts set forth in proffer no. 2.A above, the applicant, subdivider, or assignee(s) shall pay to the County of Chesterfield prior to the time of issuance of a building permit for each dwelling unit, the following amounts for infrastructure improvements (excluding transportation) within the service district for the property:
- a. if payment is made prior to July 1, 2004, \$5,453; or
 - b. if payment is made after June 30, 2004, the amount approved by the Board of Supervisors not to exceed \$5,453 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2003, and July 1 of the fiscal year in which the payment is made.
- C. At the option of the Transportation Department the cash proffer payment may be reduced for road improvements by an amount not to exceed the amount that would be paid in cash proffers for the road component, exclusive of those road improvements identified in Proffered Condition 11, performed by the applicant, subdivider, or assignee(s), as determined by the Transportation Department.
- D. In the event the cash payment is not used for which proffered within 15 years of receipt, the cash shall be returned in full to the payor.
- E. Should any impact fees be imposed by Chesterfield County at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of or credited toward, but not be in addition to, any impact fees, in a manner determined by the County. (B&M)
3. A one hundred (100) foot buffer shall be provided along Genito Road. This buffer shall be located within recorded open space and shall comply with the requirements of the Subdivision Ordinance. (P)
4. The total number of residential dwelling units allowed on the Property shall not exceed 248 dwelling units. (P)

5. All dwelling units shall have a minimum gross floor area of 2500 square feet. (BI & P)
6. All dwelling units that provide a garage shall employ rear or side entry garage designs. (BI & P)
7. All exposed portions of the foundation and exposed piers supporting front porches of each new dwelling unit shall be faced with brick or stone veneer or exterior insulation and finishing systems (EIFS) materials. (BI & P)
8. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
9. Direct access from the property to Genito Road shall be limited to two (2) public roads. The exact location of these accesses shall be approved by the Transportation Department. (T)
10. In conjunction with the recordation of the initial subdivision plat, forty-five (45) feet of right of way on the south side of Genito Road, measured from the centerline of that part of Genito Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
11. To provide an adequate roadway system at the time of complete development, the owner/developer shall be responsible for the following:
 - a. Construction of additional pavement along Genito Road at each approved access to provide right and left turn lanes, if warranted, based on Transportation Department standards;
 - b. Widening/improving the south side of Genito Road to an eleven (11) foot wide travel lane, measured from the existing centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, and overlaying the full width of the road with one and a half (1.5) inch of compacted bituminous asphalt concrete, with any modifications approved by the Transportation Department, for the entire property frontage except along the eastern part of the property that is approximately forty-five (45) feet in width;
 - c. Dedication to Chesterfield County, free and unrestricted, any additional right-of-way (or easements) required for the improvements identified above. In the event the developer is unable to acquire any "off-site" right-of-way that is necessary for any improvement described in proffer condition 11, the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way and shall provide the road

improvements within available right-of-way as determined by the Transportation Department. (T)

12. Prior to any construction plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition 11, shall be submitted to and approved by the Transportation Department. (T)
13. Public Roads shall be constructed with concrete curb and gutter, with the exception of non lot frontage roads which shall be permitted to be constructed with road side ditch. (EE)
14. At a minimum, the following restrictive covenants shall be recorded for the development.

Architectural Board – The Architectural Board shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements, and the open space, if any, appurtenant thereto on all property. It shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines and application and review procedures, all as part of the design and environmental standards. The standards shall incorporate all restrictions and guidelines relating to development and construction contained in this Declaration as well as restrictions and guidelines with respect to location of structures upon property, size of structures, driveway and parking requirements, foundations and length of structures, and landscaping requirements. Copies shall be available from the Architectural Board for review. The guidelines and procedures shall be those of the Association, and the Architectural Board shall have sole and full authority to prepare and to amend the standards available to Owners, builders, and developers who seek to engage in development of or construction upon property within their operations strictly in accordance therewith. The Architectural Board shall initially consist of three (3) members, all appointed by the Declarant. At such times as fifty percent (50%) of all property within subject property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors of the Association shall have the right to appoint a maximum of two (2) additional members. At no time shall the Architectural Board have fewer than three members nor more than five (5) members. At such time as one hundred percent (100%) of all property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors shall appoint all members of the Architectural Board. The declarant may, at his option, delegate to the Board of Directors its right to appoint one or more members of the Architectural Board. At all times, at least one (1) member of the Architectural Board shall be a member of the Association, and at least one (1) member shall be an architect licensed to practice in the State of Virginia, who shall also be the Chairperson.

Mailboxes – Every improved lot shall be required to have a mailbox with supporting post and streetlight of design and installation as specified in the standards. Each lot owner shall be responsible for the maintenance and operation of the fixture, support, and mailbox.

Parking – Each property owner shall provide space for the parking of automobiles off public streets prior to the occupancy of any building or structure constructed on said property in accordance with the standards.

Signs – No signs shall be erected or maintained on any property by anyone including, but not limited to, the owner, a realtor, a contractor, or a subcontractor, except as provided for in the standards or except as may be required by legal proceedings. Residential property identification and like signs not exceeding a combined total of more than one (1) square foot may be erected without the written permission of the Declarant or the Association.

Condition of Ground – It shall be the responsibility of each property owner and tenant to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds on such property, which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

Minimum Square Footage – No plan required under these Covenants will be approved unless the proposed house or structure has a minimum square footage of enclosed dwelling space as specified in the standards. Such minimum requirement for each lot will be specified in each sales contract and stipulated in each deed. The term “enclosed dwelling area” as used in these minimum size requirements does not include garages, terraces, decks, open porches, and the like areas.

Residential Use –

- a. All lots shall be used for residential purposes exclusively. The use of a portion of a dwelling on a lot as an office by the owner or tenants thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot. No structure, except as herein after provided, shall be erected, altered, placed, or permitted to remain on any lot other than one (1) detached single family dwelling and one (1) accessory building which may include a detached private garage, provided the use of such accessory building does not overcrowd the site and provided further that such building is not used for any activity normally conducted as business. Such accessory building may not be constructed prior to the construction of the main building.
- b. A guest suite or like facility without a kitchen may be included as part of the main dwelling or accessory building, but such suite may not be rented or leased except as part of the entire premises including the main dwelling and provided, however, that such suite would not result in overcrowding of the site.
- c. The provisions of this paragraph shall not prohibit the Developer from using a house as a model as provided in this Declaration.

Exterior Structure Completion – The exterior of all houses and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to the strikes, fires, national emergency, or natural calamities. Houses and

other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the owner of the lot shall require the contractor to maintain the lot in a reasonable clean and uncluttered condition.

Screened Areas – Each lot owner shall provide a screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks, similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance, and location must be approved by the Architectural Board prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground.

Vehicle Storage – No mobile home, trailer, tent, barn, or other similar out-building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats, boat trailers, campers, recreational vehicles, or utility trailers may be maintained on a lot, but only when in an enclosed or screened area approved by the Architectural Board such that they are not generally visible from adjacent properties.

Temporary Structures – No structure of a temporary character shall be placed upon any lot at any time provided, however, that this prohibition shall not apply to shelter or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not at any time be used as residences or permitted to remain on the lot after completion of construction. The design and color of structures temporarily placed on the lot by a contractor shall be subject to reasonable aesthetic control by the Architectural Board.

Antennas – No television antenna, radio receiver or sender, or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot, except as permitted by applicable law and except that should cable television services be unavailable and good television reception not be otherwise available, a lot owner may make written application to the Association for permission to install a television antenna and such permission shall not be unreasonably withheld.

Further Subdivision – No lot shall be subdivided or its boundary lines changed, nor shall applications for same be made to Chesterfield County, except with the written consent of the Declarant. However, the Declarant hereby expressly reserves to itself, its successors, or assigns the right to replat any lot or lots owned by it and shown on the plat of any subdivision in order to create a modified building lot or a replatted lot suitable and fit as a building site including, but not limited to, the recreational facilities, and other amenities to conform to the new boundaries of said replatted lots, provided that no lot originally shown on a recorded plat is reduced to a size smaller than the smallest lot shown on the first plat of subdivision. However the interpretation of the paragraph shall not prohibit the combining of two (2) or more contiguous lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.

Animals – Only common household pet animals shall be permitted. All pet animals must be secured by a leash or lead, or be under the control of a responsible person and obedient to that person's command at any time they are permitted outside a residence or other enclosed area upon a lot approved by the Architectural Board for the maintenance and confinement of pet animals. No livestock including cattle, horses, sheep, goats, pigs, or poultry shall be permitted upon any lot. After giving a lot owner written notice of complaint and reasonable opportunity to remedy the situation, the Board of Directors may order the removal of any pet, which has been a nuisance or a danger.

Motor Bikes All Terrain Vehicles – No motor bikes, motorcycles, or all terrain vehicles shall be driven upon the common area, lots, or roads (unless properly licensed on roads) with the exception of licensed vehicles and mopeds which shall be operated solely upon the public streets for direct ingress and egress purposes only.

External Lighting – No external lighting shall be installed or utilized on any property, which is of such character, intensity, or location as to interfere with the use, enjoyment, and privacy of any lot or owner in the near vicinity. No neon or flashing lights shall be permitted. All external lighting shall be approved by the Architectural Board as appropriate in size, location, color, and intensity.

Swimming Pools – No swimming pool, whether in ground or above ground, whether permanent or temporary, shall be installed upon any lot without the prior written consent of the Architectural Board. The Architectural Board shall require that all swimming pools be adequately screened.

Rules and Regulations – The Board of Directors is granted and shall have the power to promulgate rules and regulations, from time to time, governing the use of and activity upon the Common Area and the Recreational Facilities (if the Recreational Facilities are owned or leased by the Association). All rules and regulations promulgated by the Board of Directors shall be published and distributed to each member of the Association at least thirty (30) days prior to their effective date. (P)

15. The two (2) southern most existing ponds shall be retained. (EE)
16. Development on the Property shall be phased as follows:
 - a. No lots shall be recorded prior to January 1, 2006
 - b. No more than one hundred (100) lots shall be recorded prior to January 1, 2007.
 - c. No more than a cumulative total of two hundred (200) lots shall be recorded prior to January 1, 2008.
 - d. The remaining lots shall be recorded after January 1, 2008. (P)
17. The developer shall provide a trail along the length of Otterdale Branch from the eastern to western parcel boundaries. The exact length, width and treatment of the trail shall be approved by the Parks and Recreation Department. The trail shall be dedicated to the

county or an easement granted to the county, or shall be owned and maintained by the Homeowners Association. (P&R)

18. Temporary sediment basins shall remain in place and/or new BMP's constructed to achieve the 0.22 phosphorous standard until the downstream regional BMP into which the development will drain has been constructed. (EE)
19. All lots shall have a minimum lot area of 15,000 square feet. (P)
20. At the option of the Transportation Department, which option shall be exercised in writing no earlier than the recordation of a subdivision plat and no later than the issuance of a building permit, the applicant, subdivider, or assignee(s) shall comply with the obligations of proffer no. 2.B and, also, shall either: (i) pay to the County of Chesterfield the sum of \$880,000 for transportation improvements describe below or (ii) provide the County with a bond or surety, in a form acceptable to the County Attorney, in the amount of \$880,000 that shall provide for payment of the \$880,000 to the County within thirty (30) days of written request by the Transportation Department. In either event, the \$880,000 payment shall be used by the County for the construction of Genito Road improvements within Traffic Shed No. 6. (T and B&M)

AYES: Messrs. Gecker, Litton and Wilson.

NAYS: Messrs. Gulley and Bass.

◆ **SUSPENSION OF PLANNING COMMISSION BY-LAWS TO CONTINUE MEETING AFTER 11:00 P. M.**

Mr. Robinson noted the hour to be past 11:00 p. m. and that, in accordance with the Commission's By-Laws, no new cases could be called after 11:00 p. m. without a unanimous vote of the Commission members present to suspend the By-Laws to continue the meeting.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission suspended the By-Laws to allow continuation of the meeting after 11:00 p. m. to hear Case 04SN0250, Douglas J. and Deborah A. Hackman.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

◆ **REQUESTS WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION PRESENT.**

04SR0250: In Dale Magisterial District, **DOUGLAS J. AND DEBORAH A. HACKMAN** requested renewal of Conditional Use Planned Development (Case 03SR0100) and amendment of zoning district map to permit office use and exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1.0 - 2.5 units per acre. This request lies in an Agricultural (A) District on 7.2 acres fronting approximately 670 feet on the west line of Newbys Bridge Road approximately 200 feet south of Sunny Grove Road. Tax IDs 758-681-2847 and Part of 4279 (Sheet 17).

Ms. Peterson presented an overview of the request and staff's recommendation for denial, noting the proposed zoning and land use neither conformed to the Central Area Plan nor existing and anticipated area residential development. She also noted the applicants had secured other property on which to relocate this business; that renewal of this Conditional Use Planned Development in 2002 for a period of eighteen (18) months should have afforded the applicants appropriate time in which to receive the necessary plan and permitting approvals at the new location and transfer the operation to the new site; and that the applicants had failed to diligently pursue these approvals with the last submittal to the County taking place over one (1) year ago in May of 2003.

Mr. Andy Scherzer, the applicant's representative, did not accept staff's recommendation; referenced information provided to Mr. Litton; explained the applicants' delay in obtaining proper approvals and transferring the business to a new site; and asked the Commission to consider a favorable recommendation to the Board of Supervisors.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Litton, seconded by Mr. Wilson, the Commission resolved to recommend approval of Case 04SR0250 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. This Conditional Use Planned Development shall be granted for a period not to exceed eighteen (18) months from the date of approval. This Conditional Use Planned Development shall be granted to and for Douglas J. and Deborah A. Hackman, or to an entity in which at least one of them owns a controlling interest, and shall not be transferable nor run with the land. (P)
2. This Conditional Use Planned Development shall be limited to a home health care administrative office use. A maximum of seventeen (17) employees shall maintain offices on the Property at any one time and a maximum of twenty (20) employees shall be permitted on the Property at any one time. Provided, however, a maximum of two (2) company functions may occur on the Property during any one (1) calendar year where more than twenty (20) persons are on the Property at any one time. (P)
3. No clients shall be treated or consulted on the Property. No retail or wholesale sales shall be conducted on the Property. (P)
4. Operation of this Conditional Use Planned Development shall be limited to the buildings noted on the plan as Barn/Office, House/Office and Office entitled, "Freedom Inc., 5418 Newbys Bridge Road Chesterfield Co., Virginia" and dated June 4, 2001 (the "Plan"). There shall be no additions or exterior alterations to these structures to accommodate this use except those required by the Virginia Uniform Statewide Building Code (VAUSBC). Such uses shall occupy no more than 5,000 square feet of gross floor area. (BI)

5. For any function attended by fifty (50) or more persons, a minimum of one (1) portable toilet for each one hundred (100) persons in attendance shall be provided on the Property. (H)
6. All uses shall be conducted entirely within enclosed buildings, except for accessory automobile parking and functions where more than twenty (20) persons may be located on the Property at any one time, as described in Proffered Condition 2. (P)
7. Business hours shall be limited to Monday through Friday from 7 a.m. to 8 p.m. (P)
8. Loading areas, loading docks and drives-in loading doors shall be prohibited. (P)
9. There shall be no exterior lighting other than security lighting which shall comply with Section 19-573 of the Zoning Ordinance and shall not exceed a height of twelve (12) feet. The amount of security lighting shall be approved by the Planning Department. (P)
10. With the exception of six (6) parking spaces which may be located in front of the "Barn/Office" building as noted in the "Plan", all parking shall be located behind buildings as generally depicted on the "Plan". (P)
11. There shall be no visible signage from Newbys Bridge Road that identifies the use. (P)
12. Direct access from the Property to Newbys Bridge Road shall be limited to one (1) existing entrance/exit. Any relocation of this access shall be approved by the Transportation Department. (T)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

F. ADJOURNMENT.

There being no further business to come before the Commission, it was on motion of Mr. Wilson, seconded by Mr. Litton, that the meeting adjourned at approximately 11:18 p. m. to 12:00 Noon on July 20, 2004, to Room 502 in the Administration Building at the Chesterfield County Government Complex.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

Chairman/Date

Secretary/Date